IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 995 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

HEIRS OF DECD.RASULMIYA ISABMIYA BORADIYA

Versus

ROSHANBIBI ISABMIYA BORADIYA

Appearance:

1. Civil Revision Application No. 995 of 2000

MR YATIN SONI for Petitioner No. 1-1/6

MR MULIYA for MR RC JANI for Respondent No. 1-2

NOTICE SERVED BY DS for Respondent No. 3,5-6

MR BY MANKAD, AGP for Respondent No. 4

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 26/12/2002

ORAL JUDGEMENT

#. Rule. Mr.Muliya for Mr.Jani waives service of rule for respondent nos.1, 2 and 3 and Mr.Mankad, learned AGP waives service of rule for respondent nos.4, 5 and 6. With the consent of the parties, the matter is taken up for final hearing today.

#. The present petitioners are the original applicants of Civil Misc. Application No.764 of 2000. The said application was filed for condonation of delay caused in filing review application. It is the case of the applicants before the trial Court that, they have preferred the said review application to challenge the order passed below the application of applicant nos.1, 2 and 3 for withdrawal of the amount of compensation. It is their case that, they are aggrieved parties so far as the order of withdrawal of compensation is concerned. It is their further case that their advocate did not inform them about the order in question and after getting the knowledge, such review application is filed.

#. It is not necessary to go in detail about the facts of the case at this stage, as, the learned Assistant Judge, Sabarkantha at Himatnagar has rejected the said application on the ground that the same is barred by limitation.

#. At the time of hearing of this revision application, Mr.Muliya, who is appearing for contesting respondent nos. 1, 2 and 3, states that he has no objection if the delay is condoned provided the petitioners are directed to pay necessary costs to the respondents. Mr.Mankad, learned AGP, has left the said question of condonation of delay to the Court.

#. In view of the aforesaid consensus between the parties, this revision application is allowed. The order passed by the learned Assistant Judge, Sabarkantha at Himatnagar in Civil Misc. Application No.764 of 2000 is quashed and set aside. Delay in filing the said application is condoned. However, the petitioners herein are directed to pay costs of Rs.2500/- (in all) to respondent nos. 1, 2 and 3. The said amount of costs to be deposited before the trial Court on or before 20.1.2003. In case, the said amount is deposited by the said date, the trial Court shall proceed with the main application for review on its own merits. In case, such amount is not deposited, the said application shall stands rejected and it will not be necessary for the trial Court to proceed with the review application on merits. Rule is made absolute to the aforesaid extent with no order as to costs. Writ to be sent to the trial

Court forthwith.

(P.B.Majmudar,J)
(pathan)